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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of

Applicants : Bryce C. Waggoner et al.
Serial No. : 10/685,095
Filed : October 10, 2003
Title : WRISTBAND FORM WITH OVERLAMINATE LABEL
Docket : STD 1200 PA/41213.551
Examiner : Patricia L. Nordmeyer
Art Unit : 1772
Conf. No. : 5499

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on September 26, 2005.

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Sir:

RESPONSE TO OFFICE ACTION

This is responsive to the Office Action of May 27, 2005. This response is timely in view of the enclosed request for a one-month extension of time, and the corresponding fee. Applicants hereby traverse the rejections that the Examiner put forward in the Office Action, and assert that the grounds upon which these rejections are based are untenable.

The present application relates to a printable wristband form. The wristband form includes a top ply that has a portion that is substantially transparent and a portion that is not substantially transparent. A die cut in the top ply defines an elongated wristband that includes at least part of the portion of the top ply that is not substantially transparent, so that print indicia can be received in this area. The top ply also has a die cut in the transparent portion that defines an overlaminant label. The overlaminant label is sized to cover at least a part of the print indicia receiving area.

The Examiner has rejected claims 1-8, 11 and 13-20 of the present application under 35 U.S.C. 102(b) as anticipated by U.S. Pat. No. 6,016,618. The Examiner contends that each and every limitation found in the rejected claims is also found in the disclosure of the '618 patent.

This rejection is grounded on a mistaken interpretation of the teachings of the '618 patent by the Examiner. The Examiner asserts that the '618 patent discloses an opaque coating on the upper surface of a transparent ply. The Examiner points to column 3, lines 46-47 for a disclosure of this "opaque coating." The Examiner is in error. All that the '618 patent reference discloses here is that the sheet 13 can be" any printable sheet material such as paper, synthetic paper or a pigmented or transparent film." There is no teaching of sheet 13 being a transparent ply having a portion with an opaque coating, as called for in claim 1, nor is there a teaching of a top ply having at least a portion which is substantially transparent and a portion which is not substantially transparent, as called for in claim 13.

Further, the claims of the present application call for an "overlaminate label" that is die cut in the transparent ply (claim 1) or in the transparent portion of the top ply (claim 13), with the overlaminate label being sized to cover at least a part of the print receiving area. The '618 patent does not disclose such an overlaminate label. The Examiner indicates that there is an overlaminate label referenced at column 3, lines 61 - 64, and that the size of the label is disclosed at column 5, lines 46 - 50. However, the Examiner is in error because these two portions of the specification of the '618 patent refer to different parts of the form. Column 3, lines 61 - 64 refers to the adhesive labels 16. These are not overlaminate labels, but rather are intended to be printed and "affixed to medicines or property of the person identified by the wristband obtained from the same sheet 13." Column 5, lines 46 - 50, on the other hand, refers to "film portion 26" which "adheres to the printed band strip 12 and provides a transparent protective cover for the printed area of wristband 37." Note in Fig. 3 of the '618 patent that film portion 26 is not die cut from the top ply, but rather is cut from the bottom ply. In the '618 patent, a part of the transparent bottom ply is folded over the wristband, with the wristband being die cut from the top ply, as seen in Figs. 6, 7 and 8. However, the '618 patent uses a somewhat complicated form construction to accomplish overlamination. A portion 23 of the lower ply in the '618 patent is a conventional release sheet having a release coating, and a portion of the lower ply is a transparent sheet having an adhesive coating. The top ply of the '618 patent then has a portion with a release coating 19 and a portion with an adhesive layer 18. It is apparent that the '618 patent simply does not disclose all of the claimed elements.

The Examiner has rejected claims 10, 12, and 22 under 35 U.S.C. 103, as unpatentable over the combination of the '618 patent and U.S. Pat. No. 5,653,472. The Examiner indicates that the '618 patent "fails to disclose an opaque coating on said upper surface of said transparent ply in a central portion of said elongated wristband comprising a coating of a white, opaque ink and the transparent ply comprising a ply of substantially clear polyester film material." The Examiner asserts that the '472 patent does disclose white opaque ink and a transparent ply, and that it would be obvious to modify the '618 patent form with the teachings of the '472 patent to "have a wristband that may be printed with information in a single pass through a printer as taught by" by the '472 patent.

This rejection is deficient in three areas. It does not accurately describe the '618 patent, as explained above in the discussion of the rejection of claims 1 and 11. Further, the rejection inaccurately describes the '472 patent. Finally, rejection does not present rational reason why a person of ordinary skill would combine the teachings of the two references. Regarding the '618 patent, there simply is no teaching of sheet 13 of the '618 patent being a transparent ply having a portion with an opaque coating, as called for in claim 1, from which claims 10, and 12 depend, nor a teaching of a top ply having at least a portion which is substantially transparent and a portion which is not substantially transparent, as called for in claim 13, from which claim 22 depends. With regard to the '472 patent, the Examiner states that this reference teaches an opaque coating on an upper surface of the transparent ply in a central portion of the wristband, with the transparent ply comprising substantially clear polyester. However, the '472 patent actually teaches a white polyester film for the upper ply of the portion of the form having a wristband.

In addition to this deficiency in the teachings of the '472 patent, there is simply no reason to combine the '472 patent with the '618 patent. The reason given by the Examiner - modifying the '618 patent disclosure with the teachings of the '472 patent "to have a wristband that may be printed with information in a single pass through a printer" - makes no sense. This is so because the '618 patent teaches a form which, unmodified by the teachings of the '472 patent, may be printed with information in a single pass through a printer. Actually, both the '618 patent form and the '472 patent form are printed in a single pass through a printer. Since each of these

references has achieved single pass printing of the forms that they disclose, there would be no reason to combine the teachings of the two references to achieve single pass printing. Simply put, there is no reason to modify the '618 patent form to achieve something that the unmodified form of the '618 patent achieves.

The Examiner has rejected claims 9 and 21 under 35 U.S.C. 103 as unpatentable over the '618 patent reference in view of U.S. Pat. No. 4,318,234. The Examiner asserts that the '618 patent fails to disclose having one or more circular cut holes in the elongated wristband adjacent each end. The Examiner asserts that the '234 patent discloses this attachment arrangement and that it would be obvious to use this attachment arrangement with the wristband of the '618 patent to provide "an identification that is easy to use, easy to apply." This rejection is simply untenable. Claims 9 and 21 depend from claims 1 and 13, respectively, and the shortcomings of the disclosure of the '618 patent reference pointed out above with regard to claims 1 and 13 are equally applicable to claims 9 and 21. The secondary '472 patent reference does nothing to cure these defects. Furthermore, there is simply no reason, no motivation for a person of ordinary skill to combine the references. The Examiner's hand waving reference to ease of use and ease of application is not supported by either of the references. We might ask why the attachment arrangement of the '472 patent is any easier to use or apply than that of the '618 reference. And, of course, the Office Action provides no answer to this question. (The Office Action provides no indication of what the Examiner meant by "easy to apply," as opposed to "easy to use." Perhaps they mean the same thing.) In view of the deficiencies in the rejection, it is submitted that claims 9 and 21 are patentable over the prior art.

CONCLUSION

It is submitted that all of the claims currently pending in the above-identified application are in condition for allowance. Early notice of favorable action is respectfully requested.

Respectfully submitted,
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